IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT:

THE HON'BLE Mr. JUSTICE B. SUDERSHAN REDDY

AND

THE HON'BLE Mr. JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.11829 of 2005

Between:

M/s. RMC Ready Mix (India) Pvt. Ltd.,

(Formerly M/s. Fletcher Puibeer (India) Pvt. Ltd.)

Rep. by its authorized Signatory

Mr.Ganesh Ramakrishnan,

Unit 4A, Nacharam, Industrial Area,
Hyderabad - 500 076.

..... PETITIONER

AND

1. The Assistant Commissioner (CT)(LTU),

Saroornagar Division,
Block M4, II Floor , Mnoranjan Complex,

M.J.Road,Hyderabad.

2. The Commissioner of Commercial Taxes,

Andhra Pradesh,

Commercial Taxes Complex,

Opp: Gandhi Bhavan, M.J.Road,
Hyderabad - 500 001.

3. The Government of Andhra Pradesh,

Rep. by its Principal Secretary (Revenue)

Secretariat Complex, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue Writ of Certiorari or any other appropriate Writ or Order or Direction calling for the records of the 1st Respondent, dated 20.05.2005, in Rc.No.2621/02-03 and quash the same as arbitrary, illegal, in violation of principles of natural justice and contrary to the Provisions of Section 5-B(3) (b) (ii) of the Andhra Pradesh General sales Tax Act in levying penalty of Rs.83,48,730/- for the assessment year 2002-2003 and also the Full Bench decision of this Hon'ble Court reported in (2005) 40 APSTJ, 56.

Counsel for the Petitioner: Mr. Shaik Jeelani Basha

Counsel for the Respondents: G.P. for Commercial Taxes

The Court at the admission stage made the following :

ORDER:

We have heard the learned counsel for the petitioner and the learned Standing Counsel for the Commercial Taxes and at their request, the matter is taken up for final disposal at the admission stage.

Rule Nisi.

For the very same reasons recorded in W.P.No.11825 of 2005, dated 07-06-2005, the impugned order, dated
20-05-2005, is set aside.

The petitioner shall file its objections before the

1st respondent on or before 14-06-2005, which shall be received by the 1st respondent for his consideration.

The 1st respondent shall consider all the objections to be raised by the petitioner and dispose of the same in accordance with law by passing a reasoned order, which shall be communicated to the petitioner. The 1st respondent is directed to pass appropriate order within four weeks from the date of the petitioner submitting its explanation to the show cause notice, dated 20-04-2005. We make it clear that we have not expressed any opinion, whatsoever, on the question as to whether any penalty, at all, could be imposed on the petitioner, though various grounds have been raised by the petitioner contending that it is not liable to pay any penalty and the very provision under Section 5-B (3) (b) (ii) of the Andhra Pradesh General Sales Tax Act, 1957 is not applicable to the questions raised by the petitioner, are left open to be decided by the 1st respondent, in accordance with law, uninfluenced by the observations, if any, made in this order.

Accordingly, the impugned order, dated 20-05-2005, is set aside and the matter shall be decided by the

1st respondent, in accordance with law.

With the observations, as above, the writ petition is disposed of without any order as to costs.

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B. SUDERSHAN REDDY, J

Date:07-06-2005

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RAMESH RANGANATHAN,J

NOTE:

Furnish certified copy of the order by 10-06-2005.

(B/O)

SJ/PV

To

1. The Assistant Commissioner (CT)(LTU,

Saroornagar Division,
Block M4, 2nd Floor, Mnoranjan Complex,

M.J. Road, Hyderabad.

2. The Commissioner of Commercial Taxes,

Andhra Pradesh, Commercial Taxes Complex,

Opp: Gandhi Bhavan, M.J. Road,
Hyderabad - 500 001.

3. The Principal Secretary (Revenue)

Government of Andhra Pradesh

Secretariat Complex, Hyderabad.

4. Two C.Cs. to G.P. for Commercial Taxes,

High Court of A.P., Hyderabad. (O.U.T.).

5. Two C.D. copies.

(Enclose a copy of the order in W.P.No.11825 of 2005)